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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 238	Press ~~Mis.~~
270-271	
Dated 17-2-1862.	

Not to be folded or roughly handled

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Proceedings of the Madras Government, Public Works Department, *17th February* 1862.

No. 270. Read the following Proceedings of the Madras Government in the Judicial Department, dated 13th February 1862, No. 220 :—

Requesting to convey to Captain Ryves the serious displeasure of Government in sanctioning the cutting of the Oorapanoor Village Channel for the purpose of taking the water to the tank of the village of Sittangudi in Madura District, and issue a Circular prohibiting Officers in Public Works Department from acting in such matters without the intervention of Revenue authorities. } (Vide Judicial Proceedings, 13th February 1862, Nos. 90 @ 99.)

No. 271. ORDER THEREON, 17th February 1862, No. 238.

1. Ordered to be communicated to the Deputy Chief Engineer, Southern Circle, who will convey to Captain Ryves the serious displeasure of Government at his conduct in adopting the measure proposed by Lieutenant Coningham, and sanctioning the cutting of the Oorapanoor Channel bank for the purpose of diverting the water to a new tank, without first obtaining the express and formal orders of the Collector.

2. Ordered also to be communicated to the Chief Engineer, in view to a Circular Order being issued to the Department expressly prohibiting in future the course advocated and adopted by Captain Ryves in the case of the Oorapanoor supplying Channel, and pointing out that which should be followed as laid down in the Standing Orders of the Department.

(Signed) W. H. HORSLEY, Lieut.-Colonel,
Secretary to Government.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

Letter from the Magistrate of Madura. (Here enter 15th January 1862.)

Memo. from Deputy Chief Engineer. („ 20th January 1862.)

ORDER THEREON, 13th February 1862, No. 220.

The papers above recorded relate to a riot in the village of Oorapanoor in the Madura District on the 1st ultimo, which resulted in the death of three persons, one of them a Constable of Police shot by his own men, and in four others being wounded. The circumstances appear to have been these.

2. The water in the tank of the village of Sattangudi having failed, the villagers applied to the Sub-Overseer, Department Public Works of the Talook, asking him to procure for them a supply of water from the Oorapanoor village channel. The Sub-Overseer took from them an agreement, that in the event of this request being complied with, they would be able to save a portion of their crops, and that, in such case they would pay the Government assessment on the crops which had perished.

Report of Magistrate paragraph 4.

3. The Sub-Overseer forwarded this agreement to the Assistant District Engineer, Lieutenant Coningham. That Officer sent it on to the District Engineer,* Captain Ryves, stating that after inspecting the localities he had ordered the Sub-Overseer to throw two temporary dams across the Oorapanoor channel, and by this means to supply water for 30 days to the tank of the Sittangudi village, and for 10 days to that of the village of Shittaly, and that he had requested the Thasildar of the Talook to "give his "assistance in case of the Oorapanoor tank ryots giving any trouble."

* Letter to the District Engineer, dated 24th December 1861.

4. Captain Ryves informed Lieutenant Coningham that he fully approved the measures which the latter had adopted. Indeed he states that he believes that Lieutenant Coningham did not issue his orders to the Sub-Overseer until he had communicated with him (Captain Ryves) personally on the subject, a day or two before Lieutenant Coningham's report to his superior of the 24th December was written.

From District Engineer, to D. C. Engineer, 9th January 1862, paragraph 3.

5. About the same date some of the Oorapanoor ryots came to Captain Ryves' house at Madura, and objected to the water of their channel being drawn off to Sittangudi, but Captain Ryves would not admit their objections.

Ibid. paragraph 4.

6. Two attempts were consequently made to cut the bank of the Oorapanoor channel, one on the 27th December by two Ameens under the Sub-Overseer, and one on the 28th by a party under the Assistant Engineer, but on both occasions the parties were repulsed by the Oorapanoor villagers. On the 30th December the Thasildar, the Assistant Engineer with some Police proceeded to the channel for the purpose of cutting the embankment, but found 300 villagers sitting and lying on the bank, and the attempt to cut it was not proceeded with.

7. On the 31st December Lieutenant Coningham, having determined to cut the channel, wrote to Lieutenant Porteous, Superintendent of Police, to come out with a body of Police and bring the Deputy Magistrate Mr. Jellicoe with him. Lieutenant Porteous communicated with Mr. Jellicoe, and after consultation with him moved off a party of 13 Constables armed with muskets, and 20 men with batons, and ordered them to Terumungalum to await his arrival there next morning.

8. Mr. Jellicoe did not accompany the force, although in a note received in the afternoon from Lieutenant Coningham to Lieutenant Porteous, it was stated that there was sure to be a riot if the bank were cut. He sent out Lieutenant Porteous with certain instructions, as to the conditions on which it would be well to cut the bank.

9. On the next morning the 1st January the Assistant Engineer, Lieutenant Porteous and his Assistant Lieutenant Coningham, the Police party, the Thasildar and his Peons proceeded to the Oorapanoor channel. After a long parley, an endeavor was made to cut the channel bank by force. The villagers who had assembled in great number, and had made their preparations beforehand by concealing stones in the channel, and posting slingers in an adjacent tope, violently resisted. Showers of stones were poured by hand, and from slings on the Officers and the whole party. The Police were broken and beaten back, the European Officers were surrounded, and the firing, which seems to have been commenced without orders, was probably no more than necessary to save them from being killed or grievously injured. The result was that two villagers were killed by the Police and four wounded, though not dangerously, and that one Police Constable was shot by his own men.

10. Such is shortly the history of this melancholy affair as it is to be gathered from the Magistrate's report and the letters of the District Engineer and his Assistant. His Excellency the Governor in Council regrets that he is constrained to declare that the whole of this disastrous business was owing to gross mismanagement, and to an ignorance of their position and duties on the part of all concerned.

11. First the Government find a Sub-Overseer, a subordinate Officer in the Department Public Works, interfering in the distribution of water to certain villages, and taking engagements from the cultivators of one village as to the terms on which they would pay the assessment on their withered crops. The Magistrate has properly pointed out that this was no part of this Executive's duty, that his conduct was quite improper, and an assumption of powers which belonged only to the Revenue authorities of the District.

12. The Assistant Engineer receives this agreement and issues orders for diverting the water of a channel contrary to all previous usage. He makes no reference to the Revenue Officers, the Thasildar who could himself however have no power to sanction such a proceeding, having been applied to only to prevent the ryots of Oorapanoor offering opposition. The Government do not however remark further on the conduct of the Assistant because his superior Captain Ryves has averred that the proceedings of Lieutenant Coningham in ordering the bank to be cut and the water of the Oorapanoor supplying channel diverted to the Sittangudi and Shittaly tanks, were taken with his knowledge, and had his full approval.

From Assistant Engineer, 24th December, last para.

13. Captain Ryves' own view of the question will be found in his letter to the Deputy Chief Engineer under date the 14th ultimo, No. 1,383. He considers, it would seem, that as flowing rivers are the property of Government, if the water passing down the supplying channel of a village tank be more than appears necessary for the irrigation of the lands of the village, the Government are at liberty, although in contravention to all previous custom, to divert it to the lands of another village whose irrigation is scanty. Further that such questions may be decided, and the measures necessary for carrying out the decisions taken by Officers of the Department Public Works without any reference to the Revenue authorities of the District. This is not expressly stated in his letter, but is implied by his own conduct throughout the affair, and by his approval and adoption of the acts of his subordinate.

14. The Government consider Captain Ryves to be entirely wrong in thus claiming for his Department the power of altering and controlling the supply of water to the different works. Water disputes are difficult to settle, excite angry feelings, and require the greatest care and attention. The Regulations therefore provide specially for their settlement *by the Collector* either by Punchayet under Regulation XII of 1816, or by summary judicial powers under Regulation V of 1822, an appeal lying in this latter case to the Zillah Court.

15. Such has been the Law, and there is certainly nothing with which the Government are acquainted in the Standing Orders of the Department Public Works as at present constituted, to show any alteration on this important point, or transfer the powers vested by law in the Collector to the District Engineer. On the contrary, it has been ruled that "the Collector has "still the protective superintendence of all works "of irrigation," so that no diversion of water especially by cutting the bank of a channel should

Department Public Works, Order Book, page 265.

take place without his express sanction. But other orders make the point still clearer. Thus "the relative position of the Collector and his professional associate" has been described by the figure of "head and hand." All Estimates for new works and for the improvement or repair of existing works require his countersignature, and it has been further ordered that "*all suggested alterations of a nature either directly or indirectly to influence the financial or the social condition of the people, must invariably be communicated to the Collector*." Again, it has been laid down by Government that the Collector under the new system was to retain "the right or the duty of declaring his opinion upon the merits of every project originating in any other quarter *for improving either the irrigation* or the means of communication."

Department Public Works, Order Book, page 248.
Do. „ 146 & 147.
Do. „ 248.
Do. „ 143.

16. The Government therefore resolve to convey to Captain Ryves, through the Public Works Department, their serious displeasure at his conduct in adopting the measure proposed by Lieutenant Coningham, and sanctioning the cutting of the channel bank for the purpose of diverting the water to a new tank, without first obtaining the express and formal orders of the Collector. This course is so dangerous, that it must not only be severely censured on this occasion, but must be expressly prohibited in future by a new Circular Order to be issued in the same Department, lest more of these lamentable scenes should occur. In thus disapproving the doctrine held by Captain Ryves, the Government do not advert to the fact that the Deputy Collector and Magistrate Mr. Jellicoe, had an opportunity of stopping the proceeding when he was applied to as Magistrate for the aid of the armed Police to protect the party employed to cut the bank. A serious responsibility rests with Mr. Jellicoe for sending out a body of armed Police on the occasion without first seeing in his Revenue capacity that the water dispute was fully and legally examined and decided, but Captain Ryves nowhere shows that he considered a reference to the Revenue Officers at all necessary, nor does he allude to the part taken by Mr. Jellicoe as any justification of his own proceedings, or as relieving him from the responsibility of the measure. In fact two previous attempts had been made by the Department of Public Works to cut the bank, and it was only on its failure from the opposition of the people, that an application was made to Mr. Jellicoe for the support of the armed Police.

See paragraph 5 of Captain Ryves' letter of 9th January.

17. In his letter of 14th January Captain Ryves maintains that flowing rivers are the property of the State and that the proprietor (on behalf of the State) has the right to make the most advantageous use of that water." Even if this general principle be admitted, it is not the District Engineer who is to act on behalf of the State and alter the usual distribution of water. The Collector alone is authorized to decide such questions, when objections are raised, and he would be most careful in hearing and attempting to satisfy all parties before he permitted any departure from prescriptive usage. Undoubtedly when Government improves Irrigation works so as to enable them to supply new villages without detriment to old tanks, it has the power of distributing the newly gained water, but even this must be done through the Collector and with the greatest care both to remove all unfounded fears and make existing rights so palpably secure that a clear defence could be made to any actions which might be brought in the Civil Courts.

18. On the present lamentable occasion there had been no improvement of Irrigation works which increased the ordinary supply of water. This sudden attempt therefore of the Department of Public Works to alter the usage (mamool) of the District, by deciding that one village could spare water and giving it to others is highly censurable and contrary to all orders. Such a proceeding must excite far-spread alarm by invading prescriptive rights and rendering the value of land insecure, and unless stopped in future by peremptory orders, similar unfortunate results are sure to recur.

19. The Government have already alluded to the conduct of the Deputy Collector and Magistrate, Mr. Jellcoe, and they regard it as highly reprehensible. On the 31st December he must have been well aware that the cutting of the channel bank would encounter serious opposi-

tion. He knew that a strong party of Police, some of them armed with muskets, had been sent out, yet he remained at Madura. He showed also great ignorance of Lieutenant Porteous' position and duties in constituting him the Judge of the conditions under which the channel bank was to be cut. It was for Mr. Jellicoe himself as Deputy Collector, and not for Lieutenant Porteous as a Police Officer, to decide on the relative state of the Oorapanoor and Sattangudi tanks and lands, and whether supposing the supply of water to the former village to be greater than was required it could properly be diverted to the lands of the latter. Lieutenant Porteous' as an Officer of Police should only have been applied to, to carry out measures on which the Revenue Authorities had on due inquiry and deliberation resolved, in the event of those measures being violently resisted. As it was Mr. Jellicoe devolved on Lieutenant Porteous duties which he should himself have discharged. As observed by Mr. Levinge, had Mr. Jellicoe himself gone to the ground, this unfortunate riot would probably not have occurred. The Government certainly cannot allow him to remain in his present charge. His future sphere of employment will be considered in the Revenue Department.

Report, paragraphs 40, 41.

20. The behaviour of the Police on the occasion is to be regretted, but allowance must be made for their being a new levy, for their being greatly out-numbered, and for the sudden and unexpected nature of the attack. The second Officer should, as pointed out by the Magistrate, have been put in command of the armed party. Lieutenant Porteous should not have consented to act on the conditional instructions given by Mr. Jellicoe, but should have required precise and explicit orders for his guidance. But, save on these points, the Government do not see cause for imputing blame to that Officer.

(True Extract.)

Wyn ll

Chief Secretary.

To the Revenue Department.
,, Public Works Department.
,, Magistrate of Madura.
,, Inspector General of Police.

Exd. F. Cartledge

No. 238.

Ordered to be communicated to the Dy. Ch. Engr. S. C. who will convey to Capt. Ryves the serious displeasure of Govt. at his conduct in adopting the measure proposed by Lieut. Conningham and sanctioning the cutting of the Oorapanoor Channel bank for the purpose of diverting the water to a new Tank without first obtaining the express and formal orders of the Collector.

Ordered also to be communicated to the Ch. Engr. in view to a Circular Order being issued to the Dept. expressly prohibiting in future the course advocated and adopted by Capt. Ryves in the case of the Oorapanoor supplying channel, and pointing out that which should be followed as laid down in the Standing orders of the Dept.

E. N. R.

Fort St. George
17th February 1862.

13 Copies

To The Dy Ch. Engr. S. Circle Dispd. 18"
" " Ch. Engr.

30

No. 270 & 271.

Public Works 1862 Depr.
Pro: of Govt. for Feby.

No. 434

Pro: of the Madras Govt. in the Indl. Deptt.

Dated 13th }
Received 13th } Feby/62

No. 220.

E. N. R.

Requesting to Convey to Captain Ryves the serious displeasure of Govt. in Sanctioning the cutting of the Oorapanoor Village Channel for the purpose of taking the water to the Tank of the Village of Sattangudi in Madura District and issue a circular prohibiting officers in P. W. D. from acting in such matters without the intervention of Revenue authorities.

No. 238 - 17 Feby.

With an order

26.10.80